



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL (APEAL) NO.584 OF 2024

Mohammad Nawaz Malik

Mohammad Iqbaal Sufi

Aged about 31 yrs., Occu.: Doctor,
R/o. Dahihanda, Tq. & Dist. Akola

.... APPELLANT

// V E R S U S //

1. **State of Maharashtra,**
through PSO,
Dahihanda Police Station,
Akola

2. **XYZ**
in the FIR bearing No.0364/2024
Registered at the Dahihanda Police
Station, Akola

... RESPONDENTS

Mr A.R. Deshpande, Advocate for the appellant.

Ms T.H. Udeshi, APP for the State.

Mr. Y.P. Bage, Advocate (appointed) for respondent No.2.

CORAM : URMILA PHALKE JOSHI, J.

DATE : 10.03.2025

ORAL JUDGMENT

1. Heard.

2. **ADMIT.** Taken up for final disposal forthwith
by the consent of learned counsel for the parties.

3. By preferring this appeal the appellant has challenged the order passed by the learned Additional Sessions Judge, Akot by which the application of the present appellant for grant of anticipatory bail is rejected.

4. The appellant is apprehending his arrest at the hands of police in connection with Crime No.364/2024 registered with Police Station, Dahihanda, District Akola for the offences punishable under Sections 74, 75(1) of the Bharatiya Nyaya Sanhita, 2023 (for short, 'BNS'), under Sections 8 and 10 of the Protection of Children From Sexual Offences Act, 2012 (for short, 'POCSO Act') and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'SCST') Act, on the basis of the report lodged by the victim aged about 17 years and 9 months old on an allegation that on 16.09.2024 she along with her brother, had been to the hospital of the present applicant for treatment. At that time the present applicant

had molested her and outraged her modesty by physically touching to her private part. On the basis of the said report, police have registered the crime against the appellant.

5. After registration of the crime, the appellant approached the Special Court for grant of anticipatory bail, which is rejected and therefore, the appellant approached before this Court.

6. Heard learned counsel for the appellant, who submitted that the appellant is a medical practitioner and there was a dispute as to the payment of the fees. A false first information report is lodged against him. On perusal of the recitals of the F.I.R, it appears that the victim was along with her brother, the CCTV cameras have already installed in the said clinic and merely because there was dispute as to the payment of fees, a false FIR is lodged against him. He submitted that even accepting the

allegation as it is, the bar under Section 18-A is not attracted and therefore he be protected by granting anticipatory bail.

6. Learned APP and learned counsel for the respondent strongly opposed the application and submitted that considering the recitals of the FIR wherein it is specifically alleged that the present appellant has outraged her modesty by touching her chest, the bar under Section 18-A is attracted. Learned APP further submitted that now, the investigation is already completed. The Charge-sheet is filed. However, considering the allegations levelled against the applicant and the bar attracted, the application is rightly rejected by the Sessions Court. No interference is called for.

7. After hearing learned counsel for the appellant, learned APP for the State and learned counsel for respondent No.2, perused the recitals of the FIR, from

which it reveal that the appellant is a medical practitioner and the present victim had been to the clinic for the treatment of her brother and at the relevant time the present appellant has outraged her modesty by touching her chest. It further reveals from the recitals of the FIR that there was a dispute on account of payment of the fees. Thus, there is some substance in the contention of the learned counsel for the appellant. At the same time the contention of the appellant is that the CCTV cameras were not in working condition. At the relevant time he filed an affidavit to that extent. Now, considering the fact that the investigation is already completed and charge-sheet is already filed, no purpose will be served by keeping the appellant behind the bars. Moreover, considering the recitals of the FIR, at this stage, the bar under Section 18-A of the SCST Act is not attracted and therefore, the appellant has made out a case for grant of anticipatory bail. In view of that, I proceed to pass the following order.

ORDER

- (i) The appeal is allowed.
- (ii) In the event of arrest the appellant **Mohammad Nawaz Malik Mohammad Iqbaal Sufi**, shall be released on ad-interim anticipatory bail in connection with Crime No.364/2024, for the offences punishable under Sections 74, 75(1) of the Bharatiya Nyaya Sanhita, 2023, under Sections 8 and 10 of the POCSO Act and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the SC/ST Act on executing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety in the like amount.
- (iii) The appellant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.
- (iv) The appellant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.
- (v) The order passed by learned Additional Sessions Judge, Akot in Criminal B.A. No.136/2024 dated 05/10/2024 is quashed and set aside.

(vi) The fees of appointed counsel for victim be quantified as per rules.

8. The criminal appeal stands disposed of.

(URMILA PHALKE JOSHI, J.)

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